

DEPARTMENT OF JUSTICE
ODAG EXECUTIVE SECRETARIAT CONTROL DATA

From: SMITH, GEORGE L., NEW YORK, N.Y.
To: AG.
Date Received: 05-01-86 Date Due: 05-19-86 Control #: 6050106535
Subject & Date:
04-20-86 LETTER VIA EXPRESS MAIL REQUESTING INFO REGARDING
THE LEGALITY OF SELLING U.S. POSTAGE STAMPS AT A DISCOUNT.
ADVISED BY THE DEPT. OF THE TREASURY TO CONTACT DOJ.

Referred To:	Date:	Referred To:	Date:	File:
(1) OLC; COOPER	05-01-86	(5)		
(2)		(6)		
(3)		(7)		Prty:
(4)		(8)		1Z
Interim By:		Date:		Opr:
Sig. For: OLC		Date Released: 06-18-86		HED

Remarks:

CC OAG (RICHARDSON).
(1) RETURN THIS FORM W/2 COPIES OF REPLY TO EXEC. SEC.,
ROOM 4400A.
06-18-86. OLC REPLIED DIRECT ON 06-18-86. (LCH)

Other Remarks:

FILE: S

20 April 86



Office of Legal Counsel

Office of the
Deputy Assistant Attorney General

Washington, D.C. 20530

18 1986

Mr. George L. Smith
Cedar Lane Terrace
Ossining, N.Y. 10562

Dear Mr. Smith,

This responds to your letter to the Attorney General, received May 12, 1986, in which you ask several questions involving the legality of selling postage stamps at a discount. While we would like to be of assistance, we are not able to provide you with legal advice on this matter, as we are authorized by statute to give legal opinions only to the President and heads of executive departments and agencies. However, we understand that the Secret Service has sent you a letter, dated May 5, 1986, on the applicability of 18 U.S.C. 475 to certain of the conduct mentioned in your letter.

Sincerely,

Samuel A. Alito, Jr.
Deputy Assistant Attorney General
Office of Legal Counsel

DEPARTMENT OF JUSTICE
ODAG EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SMITH, GEORGE L., NEW YORK, N.Y.

To: AG.

Date Received: 05-01-86 Date Due: 05-19-86 Control #: 6050106535

Subject & Date

04-20-86 LETTER VIA EXPRESS MAIL REQUESTING INFO REGARDING
THE LEGALITY OF SELLING U.S. POSTAGE STAMPS AT A DISCOUNT.
ADVISED BY THE DEPT. OF THE TREASURY TO CONTACT DOJ.

	Referred To:	Date:	Referred To:	Date:	
(1)	OLC:COOPER	05-01-86	(5)		FILE:
(2)			(6)		
(3)			(7)		PRTY
(4)			(8)		1Z
	INTERIM BY:		DATE:		OPR:
	Sig. For: OLC		Date Released:		HED

Remarks

CC OAG (RICHARDSON).

(1) RETURN THIS FORM W/2 COPIES OF REPLY TO EXEC. SEC.,
ROOM 4400A.

Other Remarks:

APR 1 1986
RECEIVED
DEPARTMENT OF JUSTICE

George L. Smith
42 East 20th Street (3rd Floor)
New York, New York 10003
(212) 505-2326

April 29, 1986

The Honorable Edwin Meese III
Attorney General
Department of Justice
10th and Constitution Avenue
Washington, D.C. 20530

Dear Attorney General:

On March 7, 1986, I spoke with Mr. Jack Taylor of the U.S. Secret Service, a department of the Treasury, to solicit an opinion concerning the regulations associated with U.S. postage stamps. My inquiry dealt specifically with the legality of selling U.S. postage stamps at a discount. These stamps could be attached to labels containing advertising, or be included in card decks used to advertise various business products or services.

On March 22, 1986, I sent a letter to Mr. Taylor itemizing my areas of concern. I received a letter from Mr. Robert R. Snow in response, dated April 1, 1986 which stated the Chief Counsel of the Department of the Treasury U.S. Secret Service referred my letter to the Department of Justice for review.

I spoke to Mr. Taylor again on April 17, 1986 concerning the status of my March 22, 1986 letter and when I could expect a reply from the Justice Department. Mr. Taylor recommended I write this letter to you directly. I have enclosed copies of the correspondence I have mentioned above.

My questions were specifically:

1. May U.S. postage stamps be sold at a discount by a United States citizen or United States corporation as long as the stamps were purchased legally and at full price from the United States Postal Service.
2. Can U.S. postage stamps be mailed via the U.S. Postal Service to consumers who have paid a U.S. corporation, in advance, a discounted price for these stamps.
3. Can U.S. postage stamps be attached to an advertising label and then the combination be affixed to an envelope or package for mailing via the U.S. Postal Service, as long as the label and stamp combination does not foul up the U.S. Postal Service scanning and sorting equipment.

4. Can U.S. postage stamps be part of, or be included with, an advertising deck or pack of cards used for advertising. This deck of advertising material, which might include coupons, would be mailed via the U.S. Postal Service to consumers who would have purchased the deck in order to receive the U.S. postage stamps at a discounted rate. In this case the U.S. postage stamps would not be affixed or attached to the advertising, but they would be inserted throughout the deck.
5. A. Can U.S. postage stamps purchased from the U.S. Postal Service be returned for a full refund.
B. What are the circumstances where a refund would be refused.
6. Can U.S. postage stamps be purchased from the U.S. Postal Service at a discount.
7. How does your Department apply United States Code, Title 18, Sections 8 and 475 to advertising via labels attached to U.S. postage stamps.
8. How does your Department apply United States Code, Title 18, Section 8 and 475 to advertising via card decks that include U.S. postage stamps which have been sold at a discount to the consumer at the time they paid for the deck.
9. Are the following statements correct?
 - A. U.S. postage stamps and U.S. currency are accountable paper.
 - B. U.S. postage stamps are not currency.
 - C. U.S. postage stamps are a receipt for mail services paid in advance. They are not negotiable and are not legal tender.
 - D. U.S. postage stamps are no longer issued by an Act of Congress.

If at all possible, please expedite your response to me. I await your reply before making a final decision on my advertising expenditures for this year.

Yours truly,



George L. Smith

GLS:lbj
Enclosures



NEWS

U.S. Postal Service • Washington, DC 20260-3100

FOR IMMEDIATE RELEASE
April 25, 1986

For further information call (202) 268-2156

GENERAL RELEASE NO. 27

USPS CLARIFIES RULINGS ON PROPOSED DISCOUNT ADVERTISING STAMPS

The U.S. Postal Service today said it has neither endorsed the use of advertising decals bearing postage stamps nor ruled that their production and distribution is legal.

In a statement intended to clarify recent confusion on the subject, the Postal Service said it discourages the use of decals on the address side of mail, but will accept mail bearing decals which do not interfere with mail processing equipment. It also has ruled that no postal regulations prohibit a firm from buying stamps at full face value and reselling them at a discount.

The Service emphasized, however, that it had not ruled on other legal issues involved in the production and distribution of the decals and advises firms which propose to manufacture such decals to consult a competent private attorney to determine if the product violates U.S. civil or criminal codes not enforced by the Postal Service.

The Service called particular attention to section 475 of the Federal Criminal Code, which is enforced by the U.S. Secret Service and the Department of Justice. Provisions in section 475 prohibit anyone from attaching any advertisement to a U.S. "obligation or security," including U.S. postage stamps.

(more)

The Postal Service said it was clarifying its position because public representations that the Postal Service has fully approved the decals are apparently being made in order to sell distributorship rights and advertising space on the decals.

The public should be aware that the Postal Service has ruled on no more than the legal issue of selling stamps at a discount and whether the proposed product meets all mail processing requirements, the Service noted.

-30-

032341 56A 86-04-25 1
STAMP INFO BRANCH
RM 3449
CUSTOMER SVCS DEPT
475 L'ENFANT PLAZA W SW
WASHINGTON DC 20260-6332

George L. Smith
42 East 20th Street (3rd Floor)
New York, New York 10003
(212) 505-2326

April 21, 1986

Chief Counsel
Department of Justice
10th and Constitution Avenue
Washington, D.C. 20530

Dear Sir:

On March 7, 1986, I spoke with Mr. Jack Taylor of the U.S. Secret Service, a department of the Treasury, to solicit an opinion concerning the regulations associated with U.S. postage stamps. My inquiry dealt specifically with the legality of selling U.S. postage stamps at a discount. These stamps could be attached to labels containing advertising, or be included in card decks used to advertise various business products or services.

On March 22, 1986, I sent a letter to Mr. Taylor itemizing my areas of concern. I received a letter from Mr. Robert R. Snow in response, dated April 1, 1986 which stated the Chief Counsel of the Department of the Treasury U.S. Secret Service referred my letter to the Department of Justice for review.

I spoke to Mr. Taylor again on April 17, 1986 concerning the status of my March 22, 1986 letter and when I could expect a reply from the Justice Department. Mr. Taylor recommended I write this letter to you directly. I have enclosed copies of the correspondence I have mentioned above.

If at all possible, please expedite your response to me. I await your reply before making a final decision on my advertising expenditures for this year.

Yours truly,

George L. Smith

GLS:1bg
Enclosures



UNITED STATES POSTAL SERVICE
Customer Services Department
475 L'Enfant Plaza, SW
Washington, DC 20260-6300

April 22, 1986

Mr. George L. Smith
42 East 20th Street
New York, NY 10003-1311

Dear Mr. Smith:

Further to my letter of April 14, I have now learned that our Law Department is pursuing the question of affixing stamps to advertising matter, with the resulting item to be affixed as postage to mail.

While all the information I gave you was correct, an issue has been raised by our lawyers which makes my previous correspondence incomplete. Please be advised that there is a new question being decided, which hinges on the definition of the resulting combination with postage stamp affixed. If the combination, in fact, also can be classified as a postage stamp, then there are legal implications which our office cannot address at this time.

We would ask that you not proceed on this matter on the basis of my previous letter of April 14, but request a position or clarification from the Classification Division of the Law Department, U.S. Postal Service Headquarters, Washington, DC 20260-1141.

I apologize for this confusion, but the complexities of this situation are just now becoming evident.

Sincerely,

Joe Brockert
Senior Stamp Program Specialist
Stamps Division



UNITED STATES POSTAL SERVICE
Customer Services Department
475 L'Enfant Plaza, SW
Washington, DC 20260-6300

April 14, 1986

Mr. George L. Smith
42 East 20th Street
New York, New York 10003-1311

Dear Mr. Smith:

This responds to your letter of March 22 to Mr. Don McDowell, regarding U.S. postage stamps and advertising.

Before answering your specific questions, a couple of major points may clear up much of the confusion. First, as long as a buyer pays the U.S. Postal Service (USPS) full price for stamps, their subsequent use is subject to very few regulations. Second, the attachment of advertising to postage stamps (prohibited by U.S. Code 18: 475) is very different from the attachment of stamps to advertising. Stamps are designed to be affixed to some form of carrier; however, anything attached to a stamp is a form of defacement, and advertising specifically is prohibited.

Now, to answer your questions in order. 1) U.S. postage stamps may be sold at a discount by a U.S. citizen or corporation as long as the stamps were purchased legally and at full price from the USPS. 2) U.S. stamps may be mailed via the USPS to consumers who have paid a U.S. corporation, in advance, a discounted price for these stamps, assuming they were purchased by the corporation under the terms of item #1. 3) U.S. postage stamps may be attached to an advertising label, and then the combination affixed to a mailing piece, as long as the label/stamp combination does not interfere with USPS scanning and sorting equipment.

4) U.S. postage stamps may be part of, or included with, an advertising deck or pack of cards used for advertising, again assuming original purchase in compliance with item #1. These packs would be mailable through the USPS. 5) U.S. postage stamps purchased from the USPS may not be returned for a full refund, but defective stamps or stamps purchased in error may be exchanged for an equal value of postage stamps or meter credit. Cash refunds are strictly limited, and outlined in the enclosed copy from regulations (Domestic Mail Manual, section 147).

6) U.S. postage stamps may not be purchased from the USPS at a discount (see enclosure from Domestic Mail Manual, section 142.41).

7) U.S. Code 18: 8 & 475 does not affect stamps affixed to advertising labels, although it would prohibit labels or other advertising messages attached to stamps. This is the distinction I mentioned earlier. 8) Again, if the advertising is not attached to the stamps, U.S. Code 18:8 & 475 does not apply.

9) U.S. postage stamps and U.S. currency are accountable paper. U.S. postage stamps are not currency. U.S. postage stamps are a form of receipt or prepayment for mail services, paid in advance of the rendering of the service. They are not generally negotiable and are not legal tender, although some individuals or merchants may accept unused postage stamps as a form of payment. Specific U.S. postage stamps no longer are issued by an Act of Congress, although the authority to issue stamps in general rests with the USPS by law.

I hope this information answers your questions.

Sincerely,



Joe Brockert
Senior Stamp Program Specialist
Stamps Division

Enclosures

George L. Smith
42 East 20th Street (3rd Floor)
New York, New York 10003
(212) 505-2326

March 22, 1986

Mr. Donald McDowel
Stamp Division
Postal Service Headquarters
Washington, D.C. 20260

Dear Mr. McDowel:

This letter is in follow-up to our phone conversation of March 7, 1986. At that time we discussed the legalities and repercussions regarding the use of U.S. postage stamps as a vehicle for advertising. I would appreciate a response in writing regarding the following questions.

1. May U.S. postage stamps be sold at a discount by a United States citizen or United States corporation as long as the stamps were purchased legally and at full price from the United States Postal Service.
2. Can U.S. postage stamps be mailed via the U.S. Postal Service to consumers who have paid a U.S. corporation, in advance, a discounted price for these stamps.
3. Can U.S. postage stamps be attached to an advertising label and then the combination be affixed to an envelope or package for mailing via the U.S. Postal Service, as long as the label and stamp combination does not foul up the U.S. Postal Service scanning and sorting equipment.
4. Can U.S. postage stamps be part of, or be included with, an advertising deck or pack of cards used for advertising. This deck of advertising material, which might include coupons, would be mailed via the U.S. Postal Service to consumers who would have purchased the deck in order to receive the U.S. postage stamps at a discounted rate. In this case the U.S. postage stamps would not be affixed or attached to the advertising, but they would be inserted throughout the deck.
5. A. Can U.S. postage stamps purchased from the U.S. Postal Service be returned for a full refund.
B. What are the circumstances where a refund would be refused.

6. Can U.S. postage stamps be purchased from the U.S. Postal Service at a discount.
7. How does your Department apply United States Code, Title 18, Sections 8 and 475 to advertising via labels attached to U.S. postage stamps.
8. How does your Department apply United States Code, Title 18, Section 8 and 475 to advertising via card decks that include U.S. postage stamps which have been sold at a discount to the consumer at the time they paid for the deck.
9. Are the following statements correct?
 - A. U.S. postage stamps and U.S. currency are accountable paper.
 - B. U.S. postage stamps are not currency.
 - C. U.S. postage stamps are a receipt for mail services paid in advance. They are not negotiable and are not legal tender.
 - D. U.S. postage stamps are no longer issued by an Act of Congress.

Thank you once again for your cooperation in this matter. You were very responsive and helpful over the phone. I will await your reply before I make any decisions regarding this advertising medium.

Yours truly,

George L. Smith

P.S. Please send all correspondence to:

George L. Smith
42 East 20th Street (3rd floor)
New York, New York 10003

Phone: 212-505-2326

P!P.S. As you suggested I have spoken to Mr. Stan Mires of your Law Department and asked for a similar reply from him. If possible, I would like substantiation from your Department.

Thank you.

George L. Smith
42 East 20th Street (3rd Floor)
New York, New York 10003
(212) 505-2326

March 22, 1986

Mr. Stan Mires
Rate Application Division
Law Department
Postal Service Headquarters
Washington, D.C. 20260-1143

Dear Mr. Mires:

This letter is in follow-up to our phone conversation of March 7, 1986. At that time we discussed the legalities and repercussions regarding the use of U.S. postage stamps as a vehicle for advertising. I would appreciate a response in writing regarding the following questions.

1. May U.S. postage stamps be sold at a discount by a United States citizen or United States corporation as long as the stamps were purchased legally and at full price from the United States Postal Service.
2. Can U.S. postage stamps be mailed via the U.S. Postal Service to consumers who have paid a U.S. corporation, in advance, a discounted price for these stamps.
3. Can U.S. postage stamps be attached to an advertising label and then the combination be affixed to an envelope or package for mailing via the U.S. Postal Service, as long as the label and stamp combination does not foul up the U.S. Postal Service scanning and sorting equipment.
4. Can U.S. postage stamps be part of, or be included with, an advertising deck or pack of cards used for advertising. This deck of advertising material, which might include coupons, would be mailed via the U.S. Postal Service to consumers who would have purchased the deck in order to receive the U.S. postage stamps at a discounted rate. In this case the U.S. postage stamps would not be affixed or attached to the advertising, but they would be inserted throughout the deck.

5. A. Can U.S. postage stamps purchased from the U.S. Postal Service be returned for a full refund.
B. What are the circumstances where a refund would be refused.
6. Can U.S. postage stamps be purchased from the U.S. Postal Service at a discount.
7. How does your Department apply United States Code, Title 18, Sections 8 and 475 to advertising via labels attached to U.S. postage stamps.
8. How does your Department apply United States Code, Title 18, Section 8 and 475 to advertising via card decks that include U.S. postage stamps which have been sold at a discount to the consumer at the time they paid for the deck.
9. Are the following statements correct?
 - A. U.S. postage stamps and U.S. currency are accountable paper.
 - B. U.S. postage stamps are not currency.
 - C. U.S. postage stamps are a receipt for mail services paid in advance. They are not negotiable and are not legal tender.
 - D. U.S. postage stamps are no longer issued by an Act of Congress.

Thank you once again for your cooperation in this matter. You were very responsive and helpful over the phone. I will await your reply before I make any decisions regarding this advertising medium.

Yours truly,

George L. Smith

P.S. Please send all correspondence to:

George L. Smith
42 East 20th Street (3rd floor)
New York, New York 10003

Phone: 212-505-2326



UNITED STATES POSTAL SERVICE
 Law Department
 475 L'Enfant Plaza, SW
 Washington, DC 20260-1100

April 4, 1986

Mr. George L. Smith
 42 East 20th Street (3rd Floor)
 New York, New York 10003

Dear Mr. Smith:

This responds to your letter of March 22, 1986, which contained various questions regarding United States postage stamps. Your questions and our responses are set forth below.

1. May U.S. postage stamps be sold at a discount by a United States citizen or United States corporation as long as the stamps were purchased legally and at full price from the United States Postal Service?

To the best of our knowledge, no law forbids a private party not connected with the Postal Service to resell lawfully purchased postage stamps for a sum greater or less than their face value.

2. Can U.S. postage stamps be mailed via the U.S. Postal Service to consumers who have paid a U.S. corporation, in advance, a discounted price for these stamps?

To the best of our knowledge, no law forbids a private party not connected with the Postal Service to mail lawfully purchased postage stamps to another party who has paid for them in advance at a price greater or less than their face value.

3. Can U.S. postage stamps be attached to an advertising label and then the combination be affixed to an envelope or package for mailing via the U.S. Postal Service, as long as the label and stamp combination does not foul up the U.S. Postal Service scanning and sorting equipment?

We are aware of no postal statute or regulation which would explicitly forbid attaching a genuine postage stamp to

an advertising label and using the combination of stamp and label to pay postage on mail matter. If the combination of stamp and label (or its location) did not interfere with mail processing operations, the Postal Service would have no practical reason for refusing to accept such mail. In order to avoid interfering with automated operations, for example, it would be necessary for users of such labels to affix them only in the extreme upper right-hand corner of envelopes, to ensure that the labels do not extend into areas reserved for mail processing use. In particular, care should be taken to avoid placing the labels where they would intrude on the "bar code clear zone" along the bottom edge, the "OCR read area" reserved for the address, or the "facing identification mark (FIM)" zone on the top edge of certain types of mail. The dimensions of these areas are set forth in Domestic Mail Manual (DMM) §§122, 324, 917.5.

It should be understood that the Postal Service is also concerned with delays in the manual processing of mail which may be caused by markings and designs on mail matter which confuse or distract postal personnel. For this reason, the Postal Service does not encourage the use of non-postal seals or stickers on the address side of mail, and would prefer that such decorations be placed on another portion of the mailing piece. Nevertheless, the Postal Service does regularly accept mail bearing stickers (such as Christmas or Easter Seals) which do not imitate postage stamps by having such characteristics as words, numerals, or other markings which might indicate a postage value or a postal service. On the other hand, the Postal Service does occasionally refuse to accept mail bearing designs which include imitations of United States postage stamps, are like a postage stamp in form and design, or imitate the markings used to identify official postal services. See, DMM §142.6.

4. Can U.S. postage stamps be part of, or be included with, an advertising deck or pack of cards used for advertising? This deck of advertising material, which might include coupons, would be mailed via the U.S. Postal Service to consumers who would have purchased the deck in order to receive the U.S. postage stamps at a discounted rate. In this case the U.S. postage stamps would not be affixed or attached to the advertising, but they would be inserted throughout the deck.

To the best of our knowledge, no law forbids a private party not connected with the Postal Service to mail a packet of advertising matter including postage stamps to another party who has paid to receive the advertising matter in order to obtain the stamps at a price greater or less than their face value.

5. A. Can U.S. postage stamps purchased from the U.S. Postal Service be returned for a full refund?

B. What are the circumstances where a refund would be refused?

Damaged, defective, or otherwise unserviceable stamps sold through a mistake of the post office may be exchanged for other stamps at full value. Stamps of the wrong denomination bought through a mistake of the purchaser will be exchanged for other stamps at full value if presented in full panes or full coils in the original sealed wrappers. The Postal Service will not make any refund for unused adhesive stamps or for adhesive stamps affixed to unmailed matter. See, DMM §§147.11, 147.12, 147.23.

6. Can U.S. postage stamps be purchased from the U.S. Postal Service at a discount?

The Postal Service is not permitted to sell postage stamps at a discount. Under 18 U.S.C. §1721, any Postal Service officer or employee who "sells or disposes of postage stamps or postal cards for any larger or less sum than the values indicated on their faces" is subject to a \$500 fine and one year in prison.

7. How does your Department apply United States Code, Title 18, Sections 8 and 475 to advertising via labels attached to U.S. postage stamps?

Under 18 U.S.C. §475, it is an offense, punishable by a fine of \$500, to attach "any business or professional card, notice, or advertisement, or any notice or advertisement whatever" to an "instrument, obligation, or security, or any coin of the United States." For the purposes of title 18, United States Code, an "obligation or other security of the United States" is defined in 18 U.S.C. §8 to include "stamps and other representatives of value, of whatever denomination, issued under any Act of Congress, and canceled United States stamps." Taken literally, these two sections might be interpreted to forbid attaching postage stamps to advertising labels in the manner described in question number 3 above.

We are not aware, however, what meaning has been placed upon the relevant portions of 18 U.S.C. §475 since its enactment. The United States Code Annotated contains no citations of reported cases or other authorities which have considered the meaning of this section. We do note that postage stamps have been held to be "obligations of the United States" within the meaning of other counterfeiting statutes. See, United States v. Pappas, 134 F.2d 922 (2d Cir. 1943).

The Postal Service, moreover, does not have primary responsibility for the enforcement of counterfeiting and forgery statutes, including 18 U.S.C. §475. That mission belongs to the United States Secret Service, within the Department of the Treasury. Similarly, the formulation of criminal law enforcement policies is not the task of the Postal Service, but of the Assistant Attorney General in charge of the Criminal Division of the Department of Justice. That official, in turn, is under the supervision of the Associate Attorney General and the Attorney General. Inquiries concerning the "application" of 18 U.S.C. §475 should therefore be directed to the Department of the Treasury and the Department of Justice, not to the Postal Service.

8. How does your Department apply United States Code, Title 18, Section 8 and 475 to advertising via card decks that include U.S. postage stamps which have been sold at a discount to the consumer at the time they paid for the deck?

On its face, 18 U.S.C. §475 might not be considered to apply to the inclusion of stamps with advertising matter in the manner contemplated in question 4 above. Again, however, the Department of the Treasury and the Department of Justice should be consulted regarding the "application" of this statute.

9. Are the following statements correct?

- A. U.S. postage stamps and U.S. currency are accountable paper.
- B. U.S. postage stamps are not currency.
- C. U.S. postage stamps are a receipt for mail services paid in advance. They are not negotiable and are not legal tender.
- D. U.S. postage stamps are no longer issued by an Act of Congress.

In the sense that a postal clerk or other employee is required to account for shortages in both his stamp stock and cash drawer, both postage stamps and currency are "accountable paper." Postage stamps, however, are neither "currency" nor "legal tender", as defined in 31 U.S.C. §5103:

United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts.

Postage stamps, unlike currency, are not primarily intended to serve as a medium of exchange, or for the payment of debts. (A creditor may voluntarily agree to accept stamps in payment of a debt, but cannot be compelled to do so.) Stamps primarily serve instead as a means for the prepayment of postage. Indeed, postage stamps issued by the United States since 1860 are still valid for payment of postage from any place in the United States. DMM §142.31. Stamps are also "negotiable" in the common dictionary sense of the word because they are readily transferable by delivery from one person to another without endorsement, and the transferee may use them for the payment of postage. Whether or not they have been used for postage, moreover, stamps may also be bought, sold, and traded as merchandise by collectors. In other words, stamps have many potential roles aside from serving as evidence of prepayment of postage.

The Postal Service issues postage stamps as an exercise of its authority under 39 U.S.C. §404(a)(2) "to prescribe ... the amount of postage and the manner in which it is to be paid." In addition, the transitional provisions of the Postal Reorganization Act have transferred to the Postal Service "all the functions, powers, and duties" of the Postmaster General of the former Post Office Department. See, Pub. L. No. 91-375, §4(a), 84 Stat. 773 (August 12, 1970). Among the powers of the Postmaster General transferred to the Postal Service is that to "issue appropriate stamps in such denomination, form and design, and at such times as he deems necessary, for use in payment of postage or fees for special services." See, former 39 U.S.C. §2501. Accordingly, the Postal Service has been authorized to issue postage stamps by an Act of Congress, and the issuance of a specific stamp does not require separate Congressional authorization.

Thank you for your inquiry. We hope that this information will be of assistance to you. Copies of pertinent regulations are enclosed.

Sincerely,

Stanley F. Mires

Stanley F. Mires
Assistant General Counsel
Rate Application Division
Office of Rate and
Classification Law
Law Department

Enclosure

DEPARTMENT OF THE TREASURY
UNITED STATES SECRET SERVICE



WASHINGTON, D.C. 20223

OFFICE OF THE DIRECTOR

April 1, 1986

Mr. George L. Smith
42 East 20th St., 3rd Floor
New York, New York 10003

Dear Mr. Smith:

Your letter regarding the use of U. S. postage stamps in conjunction with an advertising project has been received.

Our Office of Chief Counsel is referring your letter to the Department of Justice for review. A response will be forwarded to you as soon as one is available.

Sincerely,

A handwritten signature in cursive script that reads "Robert R. Snow".

Robert R. Snow
Assistant to the Director
Office of Public Affairs

George L. Smith
42 East 20th Street (3rd Floor)
New York, New York 10003
(212) 505-2326

March 22, 1986

Mr. Jack Taylor
United States Secret Service
Office of Public Affairs
1800 G. Street N.W. (Room 808)
Washington, D.C. 20223

Dear Mr. Taylor:

This letter is in follow-up to our phone conversation of March 7, 1986. At that time we discussed the legalities and repercussions regarding the use of U.S. postage stamps as a vehicle for advertising. I would appreciate a response in writing regarding the following questions.

1. May U.S. postage stamps be sold at a discount by a United States citizen or United States corporation as long as the stamps were purchased legally and at full price from the United States Postal Service.
2. Can U.S. postage stamps be mailed via the U.S. Postal Service to consumers who have paid a U.S. corporation, in advance, a discounted price for these stamps.
3. Can U.S. postage stamps be attached to an advertising label and then the combination be affixed to an envelope or package for mailing via the U.S. Postal Service, as long as the label and stamp combination does not foul up the U.S. Postal Service scanning and sorting equipment.
4. Can U.S. postage stamps be part of, or be included with, an advertising deck or pack of cards used for advertising. This deck of advertising material, which might include coupons, would be mailed via the U.S. Postal Service to consumers who would have purchased the deck in order to receive the U.S. postage stamps at a discounted rate. In this case the U.S. postage stamps would not be affixed or attached to the advertising, but they would be inserted throughout the deck.

5. A. Can U.S. postage stamps purchased from the U.S. Postal Service be returned for a full refund.
B. What are the circumstances where a refund would be refused.
6. Can U.S. postage stamps be purchased from the U.S. Postal Service at a discount.
7. How does your Department apply United States Code, Title 18, Sections 8 and 475 to advertising via labels attached to U.S. postage stamps.
8. How does your Department apply United States Code, Title 18, Section 8 and 475 to advertising via card decks that include U.S. postage stamps which have been sold at a discount to the consumer at the time they paid for the deck.
9. Are the following statements correct?
 - A. U.S. postage stamps and U.S. currency are accountable paper.
 - B. U.S. postage stamps are not currency.
 - C. U.S. postage stamps are a receipt for mail services paid in advance. They are not negotiable and are not legal tender.
 - D. U.S. postage stamps are no longer issued by an Act of Congress.

Thank you once again for your cooperation in this matter. You were very responsive and helpful over the phone. I will await your reply before I make any decisions regarding this advertising medium.

Yours truly,

George L. Smith

P.S. Please send all correspondence to:

George L. Smith
42 East 20th Street (3rd floor)
New York, New York 10003

Phone: 212-505-2326

George L. Smith
42 East 20th Street (3rd Floor)
New York, New York 10003
(212) 505-2326

April 29, 1986

Mr. Frank Johnson and
Mr. Fred Ganley
Classification Division
Law Department
U.S. Postal Service Headquarters
Washington, D.C. 20260-1141

Dear Sirs:

Mr. Joe Brockent, Senior Stamp Program Specialist, in your Stamp Division suggested I contact your office for clarification regarding the matter of regulations associated with U.S. postage stamps. My inquiry dealt specifically with the legality of selling U.S. postage stamps at a discount. These stamps could be attached to labels containing advertising or be included in card decks used to advertise various business products or services.

On March 22, 1986, I sent a letter to Mr. Taylor itemizing my areas of concern. I received a letter from Mr. Robert R. Snow in response, dated April 1, 1986 which stated the Chief Counsel of the Department of the Treasury U.S. Secret Service referred my letter to the Department of Justice for review.

I spoke to Mr. Taylor again on April 17, 1986 concerning the status of my March 22, 1986 letter and when I could expect a reply from the Justice Department. Mr. Taylor recommended I write this letter to you directly. I have enclosed copies of the correspondence I have mentioned above.

My questions were specifically:

1. May U.S. postage stamps be sold at a discount by a United States citizen or United States corporation as long as the stamps were purchased legally and at full price from the United States Postal Service.
2. Can U.S. postage stamps be mailed via the U.S. Postal Service to consumers who have paid a U.S. corporation, in advance, a discounted price for these stamps.
3. Can U.S. postage stamps be attached to an advertising label and then the combination be affixed to an envelope or package for mailing via the U.S. Postal Service, as long as the label and stamp combination does not foul up the U.S. Postal Service scanning and sorting equipment.

4. Can U.S. postage stamps be part of, or be included with, an advertising deck or pack of cards used for advertising. This deck of advertising material, which might include coupons, would be mailed via the U.S. Postal Service to consumers who would have purchased the deck in order to receive the U.S. postage stamps at a discounted rate. In this case the U.S. postage stamps would not be affixed or attached to the advertising, but they would be inserted throughout the deck.
5. A. Can U.S. postage stamps purchased from the U.S. Postal Service be returned for a full refund.
B. What are the circumstances where a refund would be refused.
6. Can U.S. postage stamps be purchased from the U.S. Postal Service at a discount.
7. How does your Department apply United States Code, Title 18, Sections 8 and 475 to advertising via labels attached to U.S. postage stamps.
8. How does your Department apply United States Code, Title 18, Section 8 and 475 to advertising via card decks that include U.S. postage stamps which have been sold at a discount to the consumer at the time they paid for the deck.
9. Are the following statements correct?
 - A. U.S. postage stamps and U.S. currency are accountable paper.
 - B. U.S. postage stamps are not currency.
 - C. U.S. postage stamps are a receipt for mail services paid in advance. They are not negotiable and are not legal tender.
 - D. U.S. postage stamps are no longer issued by an Act of Congress.

If at all possible, please expedite your response to me. I await your reply before making a final decision on my advertising expenditures for this year.

Yours truly,

George L. Smith

GLS:1bg
Enclosures